

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAULYS CHICO-POLO, *et al.*,

Plaintiff, CIVIL NO. 10-10758  
-v- District Judge Patrick J. Duggan  
Embarq Payphone Services. Magistrate Judge R. Steven Whalen

INC., *et al.*,

Defendant.

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**ORDER**

Before the Court are Defendants' motion for protective order staying discovery [Doc. #38], and Plaintiff's motion to postpone ruling on dispositive motions and to compel discovery [Doc. #39].

Addressing first Plaintiff's requests, there is no reason to postpone ruling on dispositive motions by the various Defendants. As to Embarq Payphone Services, Inc. and Michael Hynes, I have file a Report and Recommendation to dismiss, because they are not state actors within the meaning of 42 U.S.C. § 1983, and issue of law that does not necessitate further discovery. Further, I have, contemporaneously with this order, filed a Report and Recommendation to grant in part and deny in part the State Defendants' motion to dismiss. I have recommended that Plaintiff survive the motion on Fourteenth Amendment Equal Protection grounds, as to injunctive relief regarding telephone calls to Colombia and Nicaragua. Again, I so recommended on issues of law. If that Report and Recommendation is accepted, discovery may continue on those issues.

For the same reasons, I will deny the Plaintiff's motion to compel discovery at this time.

Accordingly, Defendants' motion to stay discovery [Doc. #38] is GRANTED, and discovery will be stayed pending final disposition of all pending dispositive motions.

Plaintiff's motion to postpone ruling on dispositive motions and to compel discovery is DENIED.

SO ORDERED.

s/R. Steven Whalen  
R. STEVEN WHALEN  
UNITED STATES MAGISTRATE JUDGE

Date: January 18, 2011

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#### CERTIFICATE OF SERVICE

I hereby certify on January 18, 2011 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on January 18, 2011: **Daulys Chico-Polo, Royman Chico.**

s/Michael E. Lang  
Deputy Clerk to  
Magistrate Judge R. Steven Whalen  
(313) 234-5217